

"Rebates" do not generally reduce the amount of gross charges that are subject to Telecommunications Excise Tax liability. See, 86 Ill. Admin. Code 495.100. (This is a GIL.)

December 31, 1998

Dear Ms. Xxxxx:

This letter is in response to your letter dated October 16, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

COMPANY is a cellular phone service provider currently charging tax on their activation charges. The question arises when the activation charge is "rebated" back to the customer, when should the tax be charged? At the gross amount of the activation charge, or is the tax charged at the net amount of \$0.00, resulting in to tax due?

We have enclosed a copy of 86 Ill. Adm. Code Part 495 of the Department's administrative rules regarding Telecommunications Excise Tax for your review.

In general, activation fees are includable as part of the "gross charges" subject to the Telecommunications Excise Tax. Such activation fees represent an amount paid for the privilege of originating or receiving telecommunications in this State. See the enclosed copy of 86 Ill. Adm. Code 495.100.

"Rebates" do not generally reduce the amount of gross charges that are subject to Telecommunications Excise Tax liability. If the telecommunications retailers receive any reimbursement or rebate from any other source, the amount of that reimbursement or rebate is considered part of the gross receipts received by those retailers and is fully taxable. See the enclosed copy of 86 Ill. Adm. Code 495.100. However, if the telecommunications retailers offer discounted prices at the time of sale and do not receive any reimbursement or rebate for those discounts, the lower amounts received would be the retailers' gross receipts for those sales.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Encl.